
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Charles R. Mackenzie

Write the full name of each plaintiff.

____ CV ____
(Include case number if one has been assigned)

-against-

New York City Department of Education;

Do you want a jury trial?

☒ Yes ☐ No

Ketler Louissaint, Superintendent of District 75

Greer Phillips, Principal of PS 72, Horan School

Write the full name of each defendant. The names listed above must be identical to those contained in Section I.

EMPLOYMENT DISCRIMINATION COMPLAINT

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. PARTIES**A. Plaintiff Information**

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

Charles	R.	Mackenzie
First Name	Middle Initial	Last Name
356 E. 87th Street, Apt 3B		
Street Address		
New York, New York	NY	10128
County, City	State	Zip Code
917-843-7865	charles.r.mackenzie@gmail.com	
Telephone Number	Email Address (if available)	

B. Defendant Information

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. (Proper defendants under employment discrimination statutes are usually employers, labor organizations, or employment agencies.) Attach additional pages if needed.

Defendant 1:	New York City Department of Education c/o Corporation Counsel for the		
	Name		
	City of New York - 100 Church Street		
	Address where defendant may be served		
	New York, New York	NY	10007
	County, City	State	Zip Code
Defendant 2:	Greer Phillips, Principal of PS 79, The Horan School		
	Name		
	55 E. 120th Street		
	Address where defendant may be served		
	New York, Manhattan	NY	10035
	County, City	State	Zip Code

Defendant 3:

Ketler Louissaint, District 75 Superintendent

 Name
 401 1st Ave.

 Address where defendant may be served

New York, Manhattan	NY	10541
County, City	State	Zip Code

II. PLACE OF EMPLOYMENT

The address at which I was employed or sought employment by the defendant(s) is:
 The Horan School (PS79)

 Name
 55 E. 120th St.

 Address

New York, Manhattan	NY	10035
County, City	State	Zip Code

III. CAUSE OF ACTION**A. Federal Claims**

This employment discrimination lawsuit is brought under (check only the options below that apply in your case):

- ☐ **Title VII of the Civil Rights Act of 1964**, 42 U.S.C. §§ 2000e to 2000e-17, for employment discrimination on the basis of race, color, religion, sex, or national origin

The defendant discriminated against me because of my (check only those that apply and explain):

- ☐ race: _____
- ☐ color: _____
- ☐ religion: _____
- ☐ sex: _____
- ☐ national origin: _____

- ☐ **42 U.S.C. § 1981**, for intentional employment discrimination on the basis of race

My race is: _____

- ☒ **Age Discrimination in Employment Act of 1967**, 29 U.S.C. §§ 621 to 634, for employment discrimination on the basis of age (40 or older)

I was born in the year: 1964

- ☐ **Rehabilitation Act of 1973**, 29 U.S.C. §§ 701 to 796, for employment discrimination on the basis of a disability by an employer that constitutes a program or activity receiving federal financial assistance

My disability or perceived disability is: _____

- ☐ **Americans with Disabilities Act of 1990**, 42 U.S.C. §§ 12101 to 12213, for employment discrimination on the basis of a disability

My disability or perceived disability is: _____

- ☐ **Family and Medical Leave Act of 1993**, 29 U.S.C. §§ 2601 to 2654, for employment discrimination on the basis of leave for qualified medical or family reasons

B. Other Claims

In addition to my federal claims listed above, I assert claims under:

- ☒ **New York State Human Rights Law**, N.Y. Exec. Law §§ 290 to 297, for employment discrimination on the basis of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status
- ☒ **New York City Human Rights Law**, N.Y. City Admin. Code §§ 8-101 to 131, for employment discrimination on the basis of actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status
- ☒ **Other** (may include other relevant federal, state, city, or county law):
Retaliation in connection with filing with New York State Division of Human Rights and EEOC

IV. STATEMENT OF CLAIM

A. Adverse Employment Action

The defendant or defendants in this case took the following adverse employment actions against me (check only those that apply):

- ☐ did not hire me
- ☒ terminated my employment
- ☒ did not promote me
- ☐ did not accommodate my disability
- ☐ provided me with terms and conditions of employment different from those of similar employees
- ☒ retaliated against me
- ☐ harassed me or created a hostile work environment
- ☐ other (specify): _____

B. Facts

State here the facts that support your claim. Attach additional pages if needed. You should explain what actions defendants took (or failed to take) *because of* your protected characteristic, such as your race, disability, age, or religion. Include times and locations, if possible. State whether defendants are continuing to commit these acts against you.

Please see attached

As additional support for your claim, you may attach any charge of discrimination that you filed with the U.S. Equal Employment Opportunity Commission, the New York State Division of Human Rights, the New York City Commission on Human Rights, or any other government agency.

V. ADMINISTRATIVE PROCEDURES

For most claims under the federal employment discrimination statutes, before filing a lawsuit, you must first file a charge with the U.S. Equal Employment Opportunity Commission (EEOC) and receive a Notice of Right to Sue.

Did you file a charge of discrimination against the defendant(s) with the EEOC or any other government agency?

☒ Yes (Please attach a copy of the charge to this complaint.)

When did you file your charge? 09/02/2020

☐ No

Have you received a Notice of Right to Sue from the EEOC?

☒ Yes (Please attach a copy of the Notice of Right to Sue.)

What is the date on the Notice? 03/30/2021

When did you receive the Notice? 04/09/2021

☐ No

VI. RELIEF

The relief I want the court to order is (check only those that apply):

- ☐ direct the defendant to hire me
- ☒ direct the defendant to re-employ me
- ☒ direct the defendant to promote me
- ☐ direct the defendant to reasonably accommodate my religion
- ☐ direct the defendant to reasonably accommodate my disability
- ☐ direct the defendant to (specify) (if you believe you are entitled to money damages, explain that here)

Unpaid owed salary, lost wages, recalculation of pension and owed benefits,
attorneys fees and costs, reinstatement to teaching position with tenure.

VII. PLAINTIFF'S CERTIFICATION

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

06/29/21
Dated

[Signature]
Plaintiff's Signature

Charles R Mackenzie
First Name Middle Initial Last Name

356 E. 82nd Street, Apt. 3B
Street Address

New York N.Y. 10128
County, City State Zip Code

917 843 7865 Charles.R.Mackenzie@gmail.com
Telephone Number Email Address (if available)

I have read the attached Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☐ Yes ☒ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.

ADDENDUM TO FEDERAL COMPLAINT FOR CHARLES MACKENZIE

1. I am 55 years of age, and have been teaching for Respondent New York City Department of Education (hereinafter “NYCDOE”) for 12 years as a special education teacher at various schools, since the age of 43.
2. During my 12-year career, I have only received “Satisfactory” and “Effective” annual end of year ratings.

FACTS

3. I have worked under the supervision of seven Principals prior to February 2020 without any incidents and have no disciplinary letters in my file.
4. In the fall of 2010, Principal Eric Strauss stated that he decided to extend my probationary period because, “you are 46 years old and I can hire two young teachers for the price of you” and told me to start looking for a transfer.
5. In the fall of 2011, Principal Strauss had hired the two younger teachers.
6. Assistant Principal James Johnson then admitted to me that Principal Strauss had ordered him to draft a fraudulent observation report of poor performance against me, designed to threaten, harass, and intimidate me to transfer to another school.
7. At the next school, Long Island City High School, I received annual ratings of Effective, and at various times reached the levels of Highly Effective for teacher practice, state measures, and local measures.
8. Upon information and belief, the Renewal School Superintendent in the Spring of 2016 then ordered Principal Selenikas to draft an arbitrary and capricious

observation report containing false representations of poor teacher performance against me.

9. Principal Selenikas served a copy of such a report upon me, threatened me with discontinuance, and ordered me to look for a position under my other teaching certificate, Social Studies, Grades 7-12.
10. Upon information and belief, Principal Selenikas hired two younger teachers in place of me.
11. During the 2017-2018 school year, I was rated Effective, and Principal Kelly Johnson of the Baccalaureate School for Global Education stated she would be recommending me for tenure.
12. In the fall of 2018, however, Principal Johnson admitted to me that she had spoken with Superintendent Elaine Lindsay, and that said Superintendent was considering me for a discontinuance.
13. Principal Johnson then drafted five arbitrary and capricious observation reports against me with unfounded claims, such as that two students had not comprehended my lesson.
14. A few months later, in June 2018, those same two students were the ones who passed the Regents exam I helped them prepare for.
15. That same month, upon information and belief, every single one of my students with IEPs in the Global History class passed the Regents examination.
16. Despite this unique measured evidence of success, Superintendent Lindsay via Principal Johnson threatened me with a discontinuance and forced me to transfer to another school within the NYCDOE.

17. Upon information and belief, Principal Johnson hired three younger teachers in place of me.

2019-2020 School Year

18. In September 2019, I was hired at the PS M79 Horan School, which is a District 75 school within the NYCDOE. On the first day of school, Principal Greer Phillips summoned me into her office and told me my file at NYCDOE Human Resources had been flagged because I had served for many years yet did not have tenure status.

19. Throughout the fall semester, Principal Phillips and Assistant Principal Michelle Lefavre provided nothing but positive and constructive feedback while I was teaching in my special education class.

20. Suddenly, on February 3, 2020, AP Lefavre sent me a discourteous and disparaging email message full of criticisms, and that we would meet to discuss next steps.

21. The following day, AP LeFaivre summoned me into her office without notice or time for me to prepare a reply to her list of criticisms.

22. At the meeting, she placed two observation reports before me, one dated December 6, 2019 and the other dated January 16, 2020, and asked me to sign them.

23. These informal observation reports contained ratings of “Ineffective” in every category on the form.

24. AP Lefavre provided no feedback and did not discuss any next steps to improve my performance.

25. On or about February 6, 2020, I served and filed two APPR complaints regarding the aforesaid observation reports and lack of feedback, and offered ten related grievances two Union Chapter Leader Esther Moreno to be filed.
26. On February 11, 2020, Principal Phillips and AP LeFaivre observed me teach again and asked for a copy of the lesson plan, which I handed over right after class.
27. The following day, AP Lefaivre served me with two disciplinary notices accusing me of failure to supervise students and failure to provide evidence of planning.
28. The same day, Principal Phillips and AP Lefaivre summoned me to a meeting again without notice.
29. Principal Phillips then scolded me for posting student work that had not been graded the same day as the student had performed the work, and ordered me to observe three younger teachers who were in their first or second year of teaching.
30. I also received two other informal observation reports in the February and March 2020 rated ineffective in every category from Principal Phillips.
31. Younger teachers received more positive ratings than I did. AP LeFaivre is also younger than I am.
32. I raised with Principal Phillips that I believe I was being subject to age discrimination at the meeting in September 2019, and I was thereafter retaliated against with 2 more ineffective ratings and disciplinary notices.

33. At my previous school Baccalaureate School for Global Education (BSGE) in the 2017-18 school year, younger teachers received tenure while older teachers like Sarah Beane and myself were denied tenure.
34. On or about September 9, 2020, I filed a verified complaint with the New York State Division of Human Rights, dual filed with the EEOC, alleging unlawful discriminatory employment practices against my employer New York City Department of Education.
35. In retaliation for filing the SDHR complaint, in the 2020-21 school year, I was working in Upper Manhattan in a special education class without any issues when I suddenly received a notice of denial of completion of probation letter, dated October 26, 2020, without giving me 60 days notice, and ending my employment effective November 4, 2020. Principal Phillips sent me home to not return to school on October 28, 2020.
36. I was effectively terminated as of November 4, 2020, and have not been paid since October 31, 2020. I have been denied salary and my statutory pay pursuant to the New York State Education Law.

EEOC Form 161 (11/2020)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Charles R. Mackenzie**
366 E. 87th Street, Apt 3B
New York, NY 10128

From: **New York District Office**
33 Whitehall Street
5th Floor
New York, NY 10004

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

16G-2020-03895

Holly M. Shabazz,
State & Local Program Manager

(929) 506-5316

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☐

The EEOC issues the following determination: The EEOC will not proceed further with its investigation, and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☒

Other (briefly state)

Charging Party wishes to pursue matter in Federal District Court.**- NOTICE OF SUIT RIGHTS -***(See the additional information attached to this form.)*

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

On behalf of the Commission


March 30, 2021

Enclosures(s)

Judy A. Keenan,
District Director

(Date Issued)

New York State Division of Human Rights Employment Complaint Form

Although workers, interns and volunteers of all ages are protected, you must be 18 years or older to file a complaint. A parent, guardian or other person having legal authority to act in the minor's interests must file on behalf of a person under the age of 18.

1. Your contact information:											
First Name <u>Charles</u>		Middle Initial/Name <u>R</u>									
Last Name <u>Mackenzie</u>											
Street Address/ PO Box <u>356 E. 87th Street</u>		Apt or Floor #: <u>3B</u>									
City <u>New York</u>		State <u>NY</u>	Zip Code <u>10128</u>								
If you are filing on behalf of another, provide the name of that person:		Date of birth:	Relationship:								
2. Regulated Areas: Check the area where the discrimination occurred: (If you wish to file against multiple entities, for example employer and temp agency, please file a separate complaint against each.) <table style="width: 100%; margin-top: 10px;"> <tr> <td><input checked="" type="checkbox"/> Employment (including paid internship)</td> <td><input checked="" type="checkbox"/> by a Labor Organization</td> </tr> <tr> <td><input type="checkbox"/> Internship (unpaid)</td> <td><input type="checkbox"/> Apprentice Training</td> </tr> <tr> <td><input type="checkbox"/> Contract Work (independent contractor, or work for a contractor)</td> <td><input checked="" type="checkbox"/> by a Temp or Employment Agency</td> </tr> <tr> <td><input type="checkbox"/> Volunteer Position</td> <td><input type="checkbox"/> Licensing</td> </tr> </table>				<input checked="" type="checkbox"/> Employment (including paid internship)	<input checked="" type="checkbox"/> by a Labor Organization	<input type="checkbox"/> Internship (unpaid)	<input type="checkbox"/> Apprentice Training	<input type="checkbox"/> Contract Work (independent contractor, or work for a contractor)	<input checked="" type="checkbox"/> by a Temp or Employment Agency	<input type="checkbox"/> Volunteer Position	<input type="checkbox"/> Licensing
<input checked="" type="checkbox"/> Employment (including paid internship)	<input checked="" type="checkbox"/> by a Labor Organization										
<input type="checkbox"/> Internship (unpaid)	<input type="checkbox"/> Apprentice Training										
<input type="checkbox"/> Contract Work (independent contractor, or work for a contractor)	<input checked="" type="checkbox"/> by a Temp or Employment Agency										
<input type="checkbox"/> Volunteer Position	<input type="checkbox"/> Licensing										
3. You are filing a complaint against:											
Employer, Worksite, Agency or Union Name <u>New York City Department of Education</u>											
Street Address/ PO Box <u>65 Court Street</u>											
City <u>Brooklyn</u>		State <u>NY</u>	Zip Code <u>11201</u>								
Telephone Number: <u>718 935 4000</u>											
In what county or borough did the violation take place? <u>Brooklyn, NY</u>											
Individual people who discriminated against you:											
Name: <u>Michelle Lefaivre</u>		Title: <u>Assistant Principal</u>									
Name: <u>Greer Phillips</u>		Title: <u>Principal</u>									
If you need more space, please list them on a separate piece of paper.											
4. Date of alleged discrimination (must be within one year of filing):											
The most recent act of discrimination happened on: <u>2020</u> <u> </u> <u> </u> month day year											
5. For employment and internships, how many employees does this company have?											
<input type="checkbox"/> 1-14 <input type="checkbox"/> 15-19 <input checked="" type="checkbox"/> 20 or more <input type="checkbox"/> Don't know											

6. Are you currently working for this company?	
<input checked="" type="checkbox"/> Yes. Date of hire: <u>11</u> <u>2</u> <u>2007</u> <div style="text-align: center;">month day year</div>	What is your position? Teacher
<input type="checkbox"/> No. Last day of work: _____ _____ _____ <div style="text-align: center;">month day year</div>	What was your position?
<input type="checkbox"/> I was never hired. Date of application: _____ _____ _____ <div style="text-align: center;">month day year</div>	What position did you apply for?
7. Basis of alleged discrimination: Check ONLY the boxes that you believe were the reasons for discrimination, and fill in specifics only for those reasons. Please look at page 2 of "Instructions" for an explanation of each type of discrimination.	
<input checked="" type="checkbox"/> Age: Date of Birth: <u>12/19/1964</u>	<input type="checkbox"/> Familial Status:
<input type="checkbox"/> Arrest Record	<input type="checkbox"/> Military Status: <input type="checkbox"/> Active Duty <input type="checkbox"/> Reserves <input type="checkbox"/> Veteran
<input type="checkbox"/> Conviction Record	<input type="checkbox"/> Marital Status <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed
<input type="checkbox"/> Creed/ Religion: Please specify: _____	<input type="checkbox"/> National Origin: Please specify: _____
<input type="checkbox"/> Disability: Please specify: _____	<input type="checkbox"/> Predisposing Genetic Characteristic:
<input type="checkbox"/> Domestic Violence Victim Status	<input type="checkbox"/> Pregnancy-Related Condition: Please specify: _____
<input type="checkbox"/> Gender Identity or Expression, including the Status of Being Transgender	<input type="checkbox"/> Sexual Orientation: Please specify: _____
<input type="checkbox"/> Race/Color or Ethnicity: Please specify: _____ <input type="checkbox"/> Trait historically associated with race such as hair texture or hairstyle	<input type="checkbox"/> Sex: Please specify: _____ Specify if the discrimination involved: <input type="checkbox"/> Pregnancy <input type="checkbox"/> Sexual Harassment
<input type="checkbox"/> Use of Guide Dog, Hearing Dog, or Service Dog	
If you believe you were treated differently after you filed or helped someone file a discrimination complaint, participated as a witness to a discrimination complaint, or opposed or reported discrimination due to any category above, check below:	
<input type="checkbox"/> Retaliation: How did you oppose discrimination: _____	
If you believe you were discriminated against because of your relationship or association with a member or members of a protected category listed above, indicate the relevant category(ies) above, and check below.	
<input type="checkbox"/> Relationship or association	

8. Acts of alleged discrimination: What did the person/company you are complaining against do? Check all that apply			
<input type="checkbox"/> Refused to hire me	<input checked="" type="checkbox"/> Gave me a disciplinary notice or negative performance review	<input type="checkbox"/> Denied my request for an accommodation for my disability, or pregnancy-related condition	<input type="checkbox"/> Sexual harassment
<input type="checkbox"/> Fired me/laid me off	<input type="checkbox"/> Suspended me	<input type="checkbox"/> Denied me an accommodation for domestic violence	<input checked="" type="checkbox"/> Harassed or intimidated me on any basis indicated above
<input type="checkbox"/> Demoted me	<input type="checkbox"/> Did not call back after lay-off	<input type="checkbox"/> Denied me an accommodation for my religious practices	<input type="checkbox"/> Denied services or treated differently by a temp or employment agency
<input type="checkbox"/> Denied me promotion/pay raise	<input type="checkbox"/> Paid me a lower salary than other co-workers doing the same job	<input type="checkbox"/> Denied me leave time or other benefits	<input type="checkbox"/> Denied a license by a licensing agency
<input checked="" type="checkbox"/> Denied me training	<input type="checkbox"/> Gave me different or worse job duties than other workers doing the same job	<input type="checkbox"/> Discriminatory advertisement or inquiry or job application	<input checked="" type="checkbox"/> Other: Repeatedly denied tenure

9. Description of alleged discrimination

Tell us more about each act of discrimination that you experienced. Please include dates, names of people involved, and explain why you think it was discriminatory. TYPE OR PRINT CLEARLY.

See attached

If you need more space to write, please continue writing on a separate sheet of paper and attach it to the complaint form. DO NOT WRITE IN THE MARGINS OR ON THE BACK OF THIS FORM.

NOTARIZATION OF THE COMPLAINT

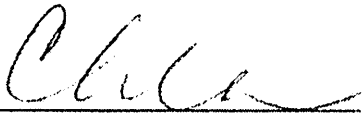
Based on the information contained in this form, I charge the above-named Respondent with an unlawful discriminatory practice, in violation of the New York State Human Rights Law.

By filing this complaint, I understand that I am also filing my employment complaint with the United States Equal Employment Opportunity Commission under the Americans With Disabilities Act (covers disability related to employment), Title VII of the Civil Rights Act of 1964, as amended (covers race, color, religion, national origin, sex relating to employment), and/or the Age Discrimination in Employment Act, as amended (covers ages 40 years of age or older in employment), or filing my housing/credit complaint with HUD under Title VIII of the Federal Fair Housing Act, as amended (covers acts of discrimination in housing), as applicable. This complaint will protect your rights under Federal Law.

I hereby authorize the New York State Division of Human Rights to accept this complaint on behalf of the U.S. Equal Employment Opportunity Commission, subject to the statutory limitations contained in the aforementioned law and/or to accept this complaint on behalf of the U.S. Department of Housing and Urban Development for review and additional filing by them, subject to the statutory limitations contained in the aforementioned law.

I have not filed any other civil action, nor do I have an action pending before any administrative agency, under any state or local law, based upon this same unlawful discriminatory practice.

I swear under penalty of perjury that I am the complainant herein; that I have read (or have had read to me) the foregoing complaint and know the contents of this complaint; and that the foregoing is true and correct, based on my current knowledge, information, and belief.


Sign your full legal name

Subscribed and sworn before me
This 2nd day of September 2020


Signature of Notary Public

County: RACHEL BADAL Commission expires:
Notary Public, State of New York
No. 01BA6087097
Qualified in Kings County #
Commission expires Feb. 10, 2023

Please note: Once this form is notarized and returned to the Division, it becomes a legal document and an official complaint with the Division of Human rights. After the Division accepts your complaint, this form will be sent to the company or person(s) whom you are accusing of discrimination.

Additional Information

This page is for the Division's records and will remain confidential and will not be sent to the company or person(s) whom you are filing against.

1. Contact Information

My primary telephone number:

917-843-7865

My secondary telephone number:

212-289-2206

My email address:

charles.r.mackenzie@gmail.com

Date of birth:

12/19/1963

Contact person: (Someone who does not live with you but will know how to contact you if the Division cannot reach you)

Name: Alan MackenzieTelephone number: 203-322-4497

Address: _____

Email address: _____

Relationship to me: Father**2. Special Needs**

I am in need of:

- ☐ Interpretation (if so what language?): _____
- ☐ Accommodations for a disability: _____
- ☐ Privacy. Keep my contact information confidential as I am a victim of domestic violence
- ☐ Other: _____

3. Settlement / Conciliation

To settle this complaint, I would accept: (Explain what you want to happen as a result of this complaint. Do you want a letter of apology, job offer, return to the job, an end to the harassment, compensation, etc.?)

Tenure in the NYC Department of Education, damages for emotional distress, and attorney's fees and costs, and removal of U observation reports.

4. Witnesses (Information about witnesses may be shared with the parties as necessary for the investigation)

The following people saw or heard the discrimination and can act as witnesses:

Name: Esther MorenoTitle: Union Chapter Leader

Telephone Number: _____

Relationship to me: union rep

What did this person witness?

Denial of my tenure decisions

Name: Mike SantosTitle: UFT District Representative

Telephone Number: _____

Relationship to me: union rep

What did this person witness?

Denial of my tenure decisions

Additional Information, Page Two

5. Did you report or complain about the discrimination to someone else? ☒ Yes ☐ No

If yes, how exactly did you complain about the discrimination? (To whom did you complain?)

Esther Moreno. We filed two APPR complaints and grievances that are pending.

Date you reported or complained about discrimination:

2
month

5
day

2020
year

What happened after you complained?

Two retaliatory letters threatening discipline.

If you did not report the discrimination, please explain why:

6. Were other people treated the same as you? How?

(For example, people who were harassed by the same manager, disciplined or terminated for the same reasons, did not receive an accommodation for the same reasons, etc.).

If you are complaining about discrimination relating to race, national origin, age, religion, etc. please describe their races, national origins, religions, etc.

Sarah Beane at the BSGE School in 2018-19

7. Were other people treated better than you? How?

(For example, people who were not fired for doing the same thing you were fired for, people who were doing the same job but making more money, etc.).

If you are complaining about discrimination relating to race, national origin, age, religion, etc. please describe their races, national origins, religions, etc.

Two teachers younger than me received tenure at BSGE, the art and social studies teachers. Stephanie Tramantozzi and Liebowitz. Younger teachers at PS M079 received more favorable treatment than me.

SDHR Complaint Addendum for Charles MacKenzie @ 8/27/20

1. I am 55 years of age, and have been teaching for Respondent New York City Department of Education (hereinafter “NYCDOE”) for 12 years as a special education teacher at various schools, since the age of 43.
2. During my 12-year career, I have only received “Satisfactory” and “Effective” annual end of year ratings.

BACKGROUND

3. I have worked under the supervision of seven Principals prior to February 2020 without any incidents, and have no disciplinary letters in my file.
4. In the fall of 2010, Principal Eric Strauss stated that he decided to extend my probationary period because, “you are 46 years old and I can hire two young teachers for the price of you” and told me to start looking for a transfer.
5. In the fall of 2011, Principal Strauss had hired the two younger teachers.
6. Assistant Principal James Johnson then admitted to me that Principal Strauss had ordered him to draft a fraudulent observation report of poor performance against me, designed to threaten, harass, and intimidate me to transfer to another school.
7. At the next school, Long Island City High School, I received annual ratings of Effective, and at various times reached the levels of Highly Effective for teacher practice, state measures, and local measures.
8. Upon information and belief, the Renewal School Superintendent in the Spring of 2016 then ordered Principal Selenikas to draft an arbitrary and capricious

observation report containing false representations of poor teacher performance against me.

9. Principal Selenikas served a copy of such a report upon me, threatened me with discontinuance, and ordered me to look for a position under my other teaching certificate, Social Studies, Grades 7-12.
10. Upon information and belief, Principal Selenikas hired two younger teachers in place of me.
11. During the 2017-2018 school year, I was rated Effective, and Principal Kelly Johnson of the Baccalaureate School for Global Education stated she would be recommending me for tenure.
12. In the fall of 2018, however, Principal Johnson admitted to me that she had spoken with Superintendent Elaine Lindsay, and that said Superintendent was considering me for a discontinuance.
13. Principal Johnson then drafted five arbitrary and capricious observation reports against me with unfounded claims, such as that two students had not comprehended my lesson.
14. A few months later, in June 2018, those same two students were the ones who passed the Regents exam I helped them prepare for.
15. That same month, upon information and belief, every single one of my students with IEPs in the Global History class passed the Regents examination.
16. Despite this unique measured evidence of success, Superintendent Lindsay via Principal Johnson threatened me with a discontinuance and forced me to transfer to another school within the NYCDOE.

17. Upon information and belief, Principal Johnson hired three younger teachers in place of me.

2019-2020 School Year

18. In September 2019, I was hired at the PS M79 Horan School, which is a District 75 school within the NYCDOE. On the first day of school, Principal Greer Phillips summoned me into her office and told me my file at NYCDOE Human Resources had been flagged because I had served for many years yet did not have tenure status.

19. Throughout the fall semester, Principal Phillips and Assistant Principal Michelle Lefavre provided nothing but positive and constructive feedback while I was teaching in my special education class.

20. Suddenly, on February 3, 2020, AP Lefavre sent me a discourteous and disparaging email message full of criticisms, and that we would meet to discuss next steps.

21. The following day, AP LeFavre summoned me into her office without notice or time for me to prepare a reply to her list of criticisms.

22. At the meeting, she placed two observation reports before me, one dated December 6, 2019 and the other dated January 16, 2020, and asked me to sign them.

23. These informal observation reports contained ratings of “Ineffective” in every category on the form.

24. AP Lefavre provided no feedback and did not discuss any next steps to improve my performance.

25. On or about February 6, 2020, I served and filed two APPR complaints regarding the aforesaid observation reports and lack of feedback, and offered ten related grievances two Union Chapter Leader Esther Moreno to be filed.
26. On February 11, 2020, Principal Phillips and AP LeFaivre observed me teach again and asked for a copy of the lesson plan, which I handed over right after class.
27. The following day, AP Lefaivre served me with two disciplinary notices accusing me of failure to supervise students and failure to provide evidence of planning.
28. The same day, Principal Phillips and AP Lefaivre summoned me to meet again without notice.
29. Principal Phillips then scolded me for posting student work that had not been graded the same day as the student had performed the work, and ordered me to observe three younger teachers in their first year or two of teaching.
30. I also received two other informal observation reports in the February and March 2020 rated ineffective in every category from Principal Phillips.
31. Younger teachers received more positive ratings than I did. AP LeFaivre is also younger than I am.
32. I raised with Principal Phillips that I believe I was being subject to age discrimination at the meeting in September 2019, and I was thereafter retaliated against with 2 more ineffective ratings and disciplinary notices.

33. At my previous school Baccalaureate School for Global Education (BSGE) in the 2017-18 school year, younger teachers received tenure while older teachers like Sarah Beane and myself were forced out of the school and denied tenure.

34. In summary, I believe that administrators of the New York City Department of Education have discriminated against me due to my age by repeatedly denying me tenure and have retaliated against me for alleging I have been the victim of age discrimination.